

**September 2005**

## **MJI Publication Updates**

**Adoption Proceedings Benchbook**

**Child Protective Proceedings Benchbook  
(Revised Edition)**

**Crime Victim Rights Manual (Revised  
Edition)**

**Domestic Violence Benchbook (3rd ed)**

**Friend of the Court Domestic Violence  
Resource Book (Revised Edition)**

**Michigan Circuit Court Benchbook**

**Sexual Assault Benchbook**

# September 2005

## Update: Adoption Proceedings Benchbook

### CHAPTER 7

#### Rehearings, Appeals, Rescissions, and Dissolutions

##### 7.7 Appeals to the Supreme Court

On page 232, replace the second paragraph and the quote of MCR 7.302(C)(4)(a)-(b) with the following text:

MCR 7.302(C)(4)\* provides that if the Court of Appeals remands the case to a lower court for further proceedings, the application for leave may be filed within 28 days from orders terminating parental rights or within 42 days in other civil cases, after one of the following:

“(a) the Court of Appeals decision ordering the remand,

“(b) the Court of Appeals clerk mails notice of an order denying a timely filed motion for rehearing of a decision remanding the case to the lower court for further proceedings, or

“(c) the Court of Appeals decision disposing of the case following the remand procedure, in which case an application may be made on all issues raised in the Court of Appeals, including those related to the remand question.”

\*Effective  
September 1,  
2005.

# September 2005

## Update: Child Protective Proceedings Benchbook (Revised Edition)

### CHAPTER 21

#### Appeals

#### 21.4 Filing Requirements

On page 454, replace the first paragraph and the quote of MCR 7.302(C)(4)(a)–(b) with the following text:

MCR 7.302(C)(4)\* provides that if the Court of Appeals remands the case to a lower court for further proceedings, the application for leave may be filed within 28 days from orders terminating parental rights or within 42 days in other civil cases, after one of the following:

“(a) the Court of Appeals decision ordering the remand,

“(b) the Court of Appeals clerk mails notice of an order denying a timely filed motion for rehearing of a decision remanding the case to the lower court for further proceedings, or

“(c) the Court of Appeals decision disposing of the case following the remand procedure, in which case an application may be made on all issues raised in the Court of Appeals, including those related to the remand question.”

\*Effective  
September 1,  
2005.

## Update: Crime Victim Rights Manual (Revised Edition)

### CHAPTER 5

#### Victim Privacy

##### 5.9 Limitations on Access to Court Records

###### A. General Provisions Limiting Access to Court Records

On page 107, immediately after the quote of MCR 8.119(F), insert the following text:

**Note:** When a party files an appeal in a case where the trial court sealed the file, the file remains sealed while in the possession of the Court of Appeals. MCR 7.211(C)(9)(a). Any requests to view the sealed filed will be referred to the trial court. *Id.* MCR 8.119(F) also governs the procedure for sealing a Court of Appeals file. MCR 7.211(C)(9)(c).

## Update: Domestic Violence Benchbook (3rd ed)

### CHAPTER 10

#### Case Management for Safety in Domestic Relations Cases

##### 10.4 Confidentiality of Records Identifying the Whereabouts of Abused Individuals

###### A. Confidentiality in Friend of the Court Records Generally

Insert the following “**Note**” after the quote of MCR 8.119(F), on page 435:

**Note:** When a party files an appeal in a case where the trial court sealed the file, the file remains sealed while in the possession of the Court of Appeals. MCR 7.211(C)(9)(a). Any requests to view the sealed file will be referred to the trial court. *Id.* MCR 8.119(F) also governs the procedure for sealing a Court of Appeals file. MCR 7.211(C)(9)(c).

## CHAPTER 12

### Domestic Violence and Access to Children

#### 12.7 Parenting Time

##### B. Terms for Parenting Time

Insert the following text before the last sentence of the only full paragraph on page 512:

When a party requests specific parenting time provisions, the trial court errs by not considering the request. *Pickering v Pickering*, \_\_\_ Mich App \_\_\_, \_\_\_ (2005).

# September 2005

## Update: Friend of the Court Domestic Violence Resource Book (Revised Edition)

### CHAPTER 2

#### Screening and Case Management

##### 2.13 Confidentiality of Records Identifying the Whereabouts of Abused Individuals

###### A. Confidentiality in Friend of the Court Records Generally

Insert the following “**Note**” after the quote of MCR 8.119(F), on page 58:

**Note:** When a party files an appeal in a case where the trial court sealed the file, the file remains sealed while in the possession of the Court of Appeals. MCR 7.211(C)(9)(a). Any requests to view the sealed filed will be referred to the trial court. *Id.* MCR 8.119(F) also governs the procedure for sealing a Court of Appeals file. MCR 7.211(C)(9)(c).

## CHAPTER 4

### Custody and Parenting Time

#### 4.6 Issuing Orders for Parenting Time

##### B. Terms for Parenting Time

Insert the following text before the last sentence on page 109, which begins “Under MCL 722.27a(8) . . .” :

When a party requests specific parenting time provisions, the trial court errs by not considering the request. *Pickering v Pickering*, \_\_\_ Mich App \_\_\_, \_\_\_ (2005).



## Update: Michigan Circuit Court Benchbook

### CHAPTER 1

#### General Rules Governing Court Proceedings

##### 1.1 Access to Court Proceedings and Records

###### F. Limits on Access to Court Records—MCR 8.119(F)

Insert the following text on page 5 immediately before Section 1.2:

When a party files an appeal in a case where the trial court sealed the file, the file remains sealed while in the possession of the Court of Appeals. MCR 7.211(C)(9)(a). Any requests to view the sealed file will be referred to the trial court. *Id.* MCR 8.119(F) also governs the procedure for sealing a Court of Appeals file. MCR 7.211(C)(9)(c).

## Update: Sexual Assault Benchbook

### CHAPTER 4

#### Defenses To Sexual Assault Crimes

##### 4.7 Consent

###### A. Applicability to Criminal Sexual Conduct Offenses

Add the following text to the end of the first paragraph on page 217:

Consent is not a defense to first-degree criminal sexual conduct under MCL 750.520b(1)(c) (penetration under circumstances involving the commission of any other felony) if consent is not a valid defense to the underlying felony. *People v Wilkens*, \_\_\_ Mich App \_\_\_, \_\_\_ (2005). Consent is not a defense to the felony of producing child sexually abusive material, MCL 750.145c(2), and therefore not a defense to MCL 750.520b(1)(c). *Wilkens, supra* at \_\_\_.